

Revenue Rulings

Transferee's improvements in transfer of land valuations

Revenue Ruling DA.010

Replaces SD.085

Preamble

This ruling clarifies the valuation basis of land described in a transfer of land where improvements to that property have been made by the transferee prior to the date of contract.

Section 10 of the *Duties Act 2000* (the Duties Act) defines dutiable property to include "an estate in fee-simple" (land) for the purposes of assessing the duty applicable to transfers and conveyances of fee simple title. Section 20 in Part 2 of Chapter 2 of the Duties Act provides that the value of dutiable property will be the greater of the consideration or the market value at the date of sale, or in the case of a gift, at the date of the instrument of transfer.

Circumstances can exist where the transferee has made improvements to the land as a result of personal arrangements with the transferor, and the parties have taken these into account when negotiating the contract price. Such improvements are to be distinguished from those made to the land as a result of contractual obligations contained in a leasing arrangement.

Ruling

Where land, which is the subject of a conveyance or transfer of land, has been improved by the transferee, the cost of those improvements may be deducted from the market value of the land, in certain circumstances, for the purpose of assessing the duty payable.

In determining whether the cost of the improvements can be deducted, the Commissioner of State Revenue will take into account the circumstances surrounding the use of the land by the transferee. To be eligible to be deducted, the improvements must have been made in contemplation of a future transfer to the transferee and considered by the parties to be the property of the transferee from the date the improvements were made.

The Commissioner will not consider improvements resulting from contractual obligations, such as those made under a lease in lieu of, or supplementary to, rent, to be the property of the transferee. Nor will ongoing maintenance of the property be viewed as an improvement.

Duty will be based on the market value of the land, less the costs actually paid or payable by the transferee in respect of the improvements in question, or the consideration, whichever is the higher. Costs may include materials and labour but will not include equipment purchased to effect the improvements nor any labour contributed by the transferee.

The transferee will be required to satisfy the Commissioner, initially by statutory declaration, as to the nature of any agreement with the transferor, particulars of the improvements and details of the costs incurred. Where necessary, copies of invoices to support the claim may be required.

Please note that rulings do not have the force of law. Each decision made by the State Revenue Office is made on the merits of each individual case having regard to any relevant ruling. All rulings must be read subject to Revenue Ruling GEN.01.

Commissioner of State Revenue
October 2001

